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January 3, 2024

VIA ECF

Honorable Michael A. Shipp, District Judge
United States District Court- District of NJ
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Court Room 5W
Trenton, NJ 08608

Re: *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation - MDL 2738*

Pamela L. Wojta v. Johnson & Johnson, et al.
Case No. 3:18-cv-08610-MAS-RLS

Dear District Judge Shipp:

We write to object to plaintiff's improper effort to dismiss this case without prejudice.

Here are the facts. On January 2, 2024, without consent from defendants, plaintiff filed a Notice of Voluntary Dismissal Without Prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) in an attempt to dismiss plaintiff's claims. (See Dkt.9 in matter 3:18-cv-08610 and Dkt. 28856 in matter 3:16-md-02738).

Plaintiff's Notice of Dismissal Without Prejudice is improper. Defendants filed Notices of Appearance. Counsel for Johnson & Johnson defendants entered Notices of Appearance on June 12, 2018, in 3:18-cv-08610 (Dkt. 6) and on October 25, 2016, in 3:16-md-02738 (Dkt. 7). Pursuant to CMO No. 4, because defendants have filed Notices of Appearance, "the requirements of Fed. R. Civ. P. 41(a) shall attach for a voluntary dismissal such that any dismissal shall occur only upon a stipulation of dismissal signed by all parties who have appeared or by Court Order after a properly noticed motion." (See CMO No. 4). Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), because defendants have answered plaintiff's Complaint, plaintiff was required to either obtain defendants' consent for dismissal or file a motion to dismiss. Neither happened here. Defendants should not be prejudiced by plaintiff being allowed

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to unilaterally dismiss her case without prejudice when defendants have responded to the operative pleading in the case as required by Rule 41(a)(1)(A)(i).

Accordingly, plaintiff's January 2, 2024, Notice of Voluntary Dismissal Without Prejudice should be rejected and not processed by the Court Clerk. We do not consent to dismissal of this case without prejudice.

Respectfully submitted,

/s/ Susan M. Sharko

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Attorneys for Defendants Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc. now known as Johnson & Johnson Consumer Inc.

SMS/scg

cc: Stephanie Sherman, Esq. (via ECF)